



DEPARTMENT OF PERSONNEL

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MEMO PERD #29/03

August 19, 2003

TO: Department Directors
Division Administrators

FROM: Jeanne Greene, Director
Department of Personnel

SUBJECT: PERSONNEL COMMISSION MEETING MINUTES

Attached are the minutes from the June 27, 2003, Personnel Commission meeting. These minutes have not been approved and are subject to revision at the next meeting of the Personnel Commission on September 19, 2003.

JG:cp

Enclosure

cc: Agency Personnel Liaisons
Agency Personnel Representatives

**PERSONNEL COMMISSION
MEETING MINUTES OF JUNE 27, 2003**

**MEMO PERD 29/03
August 19, 2003**

I. Call to Order

Chairman Claudette Enus called the meeting to order at 9:03 a.m., June 27, 2003, at the Department of Transportation, 1263 S. Stewart, Carson City, Nevada, which was video-conferenced to the Department of Transportation, 123 E. Washington, Las Vegas. Members present: Chairman Claudette Enus and Commissioners Katherine Fox, Patrick Horgan and Jim Skaggs. Commissioner David Read attended the meeting from Las Vegas. Also present were: Jeanne Greene and Carol Thomas from the Department of Personnel, and Sr. Deputy Attorney General Jim Spencer.

Chairman Enus introduced and welcomed Commissioner Katherine Fox to her first meeting.

II. *Adoption of Agenda

Commissioner Skaggs' motion to adopt the agenda was seconded by Commissioner Read and unanimously carried.

III. *Adoption of Minutes of the Previous Meeting

The minutes of the January 10, 2003, meeting were approved with Commissioner Fox abstaining.

IV. *Prohibitions & Penalties

Department of Motor Vehicles

Phil Brittenham, Personnel Officer, Department of Motor Vehicles, requested the Commission's approval on their revised Prohibitions & Penalties Policy.

Commissioner Skaggs requested the maximum penalty for a first offense related to willful falsification of financial records, unlawful copying of copyrighted and licensed materials, and the improper use of State information technology resources be increased to 5.

Mr. Brittenham stated he would make the changes as requested



Commissioner Horgan indicated the statement, making unauthorized personal profit transactions, was too broad.

Mr. Brittenham replied it only related to agency records and transactions in the regular course of business; he would make the statement clearer.

Commissioner Horgan also felt the statement, firearms prohibited from agency property, interfered with the constitutional right to keep and bear arms, and it was hypocritical of the State to set up a system where you can carry a concealed weapon into other businesses, but not onto any State property. He felt it was a matter of safety and suggested removing the item altogether.

Mr. Brittenham stated there was a policy provided to State agencies by the Attorney General's Office where employees can make special arrangements to carry a concealed weapon as long as it was secured once they were at work.

Mike Jensen, Sr. Deputy Attorney General, Attorney General's Office, representing the Department of Motor Vehicles, explained that the intent of the policy is to balance the right of an individual to carry a concealed weapon and the agency's need to know there's a weapon in the workplace and that it's safely carried and stored.

Commissioner Enus felt it was responsible of the agency to include this in their Prohibitions & Penalties policy considering the issues of today's workplace violence.

Commissioner Horgan asked how the agency would determine if someone was engaging in political activity to gain promotion, transfer or salary advancement.

Mr. Brittenham responded that the Department of Personnel provides regulations for processing employment applications, transfers, and assigning salaries, and they have to look at activities which may be outside those regulations.

Chairman Enus asked for any additional comments or concerns. There were none.

Commissioner Skaggs' motion to approve the Prohibitions & Penalties with the changes previously addressed was seconded by Commissioner Fox and unanimously carried.

V. *Regulation Changes to Nevada Administrative Code, Chapter 284

Shelley Blotter, Personnel Analyst, Department of Personnel, gave the Commission a brief explanation of the proposed regulation changes.

Sec. 1 - NAC 284.208 Compensation for dangerous duty.

This amendment, proposed by the Department of Personnel, replaces similar language that was removed during rules simplification. This amendment does not change the intent or the current application of the regulation.

Commissioner Skaggs' motion to approve Section 1 was seconded by Commissioner Read and unanimously carried.

Sec. 2 - NAC 284.414 Temporary appointments.

This amendment, proposed by the Department of Transportation, allows a department to extend the period of a temporary appointment if it is replacing an employee who is on leave of absence for active military service.

Commissioner Skaggs' motion to approve Section 2 was seconded by Commissioner Fox and unanimously carried.

Sec. 3 - NAC 284.468 Standards for performance of work.

This amendment, proposed by the Department of Personnel, requires that work performance standards be prepared on a form authorized by the Department of Personnel.

Commissioner Horgan's motion to approve Section 3 was seconded by Commissioner Skaggs and unanimously carried.

Sec. 4 - NAC 284.524 Workweeks and workdays; period for rest and meals.

This amendment, proposed by the Department of Corrections, would remove the requirement for the department to provide rest periods without limitation to the length of his shift if the employee has direct contact with inmates in an institution.

Commissioner Skaggs' motion to approve Section 4 was seconded by Commissioner Read and unanimously carried.

Sec. 5 - NAC 284.718 Confidential records.

This amendment, proposed by the Department of Personnel, ensures that the employment records of current and former employees remain confidential including the employee's or former employee's social security number. Additionally, it ensures that the records obtained or kept by the Committee on Catastrophic Leave regarding a current or former employee's health, medical condition, or disability are confidential.

Commissioner Skaggs' motion to approve Section 5 was seconded by Commissioner Fox and unanimously carried.

Sec. 6 - NAC 284.284.726 Access to confidential records.

This amendment, proposed by the Department of Personnel, would allow the Committee on Catastrophic Leave to receive confidential information concerning an employee when the information is relevant to the proceeding before them.

Chairman Enus asked if there was a requirement for employees to sign a release.

Ms. Blotter replied no because it is at an employee's request that the issue is being heard by the committee.

Commissioner Skaggs inquired whether the regulation met HIPAA requirements.

Ms. Blotter didn't think the regulation had any interaction with HIPAA requirements because this is a process initiated by the employee.

Chairman Enus was concerned with meeting HIPAA requirements and suggested that the application for Catastrophic Leave include a provision that the employee agrees to release medical information associated with it -- just a sentence or two.

Linda Covelli, State of Nevada Employees' Association, proposed that instead of placing a provision on the Catastrophic Leave application, to wait until the application was in the appeal process before asking the employee to release their medical information.

Ms. Blotter believed the committee would agree to the change.

Chairman Enus stated the proposed language was fine, but the procedures needed to be readdressed.

Commissioner Skaggs' motion to approve Section 6 with the proposed procedural modification was seconded by Commissioner Read and unanimously carried.

VI *Classification Appeals

- A. Shawn Sam, Trudy Myers & vacant position 810-4741-CC4058, Program Officer III's

Department of Motor Vehicles, Central Services Division

Chairman Enus asked those wishing to testify to identify themselves. Dana Mathiesen, Deputy Director, Department of Motor Vehicles (DMV); Ginny Lewis, Director, Department of Motor Vehicles; and Peter Long, Supervisory Personnel Analyst, Department of Personnel were present.

Chairman Enus asked counsel whether the Commission had jurisdiction to make a ruling on this appeal.

Jim Spencer, Sr. Deputy Attorney General, responded that the reclassification occurred in 1999, and there was no appeal at that time. When new NPD-19's were studied in 2002, the Department of Personnel found no significant change had occurred to the positions. The DMV alleged there was an error in the reclassification in 1999, and wished to challenge the decision at this time. Mr. Spencer reviewed the appeal process for the Commission citing NAC 284.152. He stated the appeal was not timely and the Commission should dismiss the appeal on that basis.

Ginny Lewis stated she was aware of the timeliness of the appeal and explained that at the time the agency underwent reorganization and implemented a computer system. Ms. Lewis explained the primary focus of the former administration was to serve the public and resolve problems with the new computer system; therefore, appealing the reclassification of these positions was not acted upon. Now that the agency had stabilized, they found these positions were not equitable to other positions within the agency.

Dana Mathiesen explained the Central Services Division is the second largest in the agency, and it was inequitable to hold these three positions to the same standards as managers in other divisions when they're paid less.

Commissioner Fox asked about the grade differential between division administrators and their managers. Ms. Mathiesen replied administrators were at grade 43 and typically managers were at grades 39 and 40.

Chairman Enus asked if there had been any meetings between management of the DMV and the Department of Personnel other than through the course of appeals.

Ms. Mathiesen stated there had been several meetings, but alternatives other than the NPD-19 process to resolve the situation had not been discussed.

Ms. Lewis added that the Department of Personnel has regulations regarding classification, but stated there should be some other recourse to correct situations like this.

Chairman Enus suggested the agencies get together to discuss possible resolutions. There may not be one, but there needed to be an attempt to accomplish a resolution.

Commissioner Skaggs' motion to dismiss the appeal with a provision that the agencies meet immediately to explore alternatives to correct the inequity was seconded by Commissioner Read and unanimously carried.

B. Diane Kelly, Program Officer I
Department of Transportation

Chairman Enus asked those wishing to testify to identify themselves. Peter Long, Supervisory Personnel Analyst, Department of Personnel; Beverly Ghan, Personnel Analyst, Department of Personnel; Rob Easton, Personnel Officer, Department of Transportation (NDOT); Diane Kelly, Claims Manager, NDOT; Susan Martinovich, Deputy Director, NDOT; Sue Dunt, Executive Director, Risk Management Division, Department of Administration; Chris Cook, Manager of Safety and Loss Control, NDOT; and Marilyn Yezek, Human Resource Manager, NDOT, were present.

Rob Easton explained that in meetings prior to the Commission meeting, the Department of Personnel reassessed their original determination of allocating Ms. Kelly to Management Analyst I, grade 33, and recommended allocation to Workers' Compensation Program Specialist V, grade 34. Even though NDOT was pleased with the solution Personnel presented, they felt they still needed to go forward with the appeal to explain why the position warranted a grade 35.

Mr. Easton explained the Management Analyst series requires a written examination heavily weighted on fiscal management, budgeting, accounting, and program analysis. NDOT feels this examination is unnecessary and unrelated to the program functions performed. Ms. Kelly is a Nationally Certified Workers' Compensation Specialist, which they felt established her at the grade 35 level. NDOT suggested that her position be allocated to a Program Officer III, grade 35, based on classification factors and other positions in State government managing a statewide workers' compensation program.

Mr. Easton compared the duties performed by Management Analysts and Program Officers and stated Ms. Kelly's duties fit better in the Program Officer series due to the size of the program. With approximately 1,680 full time and 150 temporary employees, there are an average of 150 workers' compensation claims per year, but the variety and complexity of the claims really made the difference. NDOT is separate from the State workers' compensation program in that they maintain cost controls internally. In addition, Ms. Kelly is involved in advocacy, loss prevention, ergonomics, claims adjustment issues, and ensures proper medical treatment.

Sue Dunt explained the Risk Management Division was responsible for managing a variety of insurance programs on behalf of the State with workers' compensation being the largest. Agencies in the Central Payroll pool are obligated to participate in the Risk Management program, and larger agencies such as NDOT and the University & Community College System of Nevada (UCCSN) have the option to operate their own programs.

Ms. Dunt compared two positions handling workers' compensation and loss control prevention at the Departments of Public Safety and Corrections which were both grade 35.

Susan Martinovich stated the agency strongly supported the position being reclassified to Program Officer III, grade 35.

Commissioner Skaggs asked Ms. Kelly whether she was involved in safety training, implementing new ergonomic standards and managing the early return to work program, which she responded affirmatively.

Commissioner Fox questioned Ms. Kelly's role in permanent modified return to work employees. Ms. Kelly replied those workers are referred to the Vocational Rehabilitation Division.

Peter Long explained the Department agreed the Management Analyst series was not appropriate and the recommendation was revised to Workers' Compensation Program Specialist V, grade 34. Recently, NDOT felt the Agency Loss Control Coordinator class, grade 35, was most appropriate, but now believed it fit the Program Officer III concept.

Beverly Ghan explained why Ms. Kelly's duties did not meet the concept for Agency Loss Control Coordinator. Ms. Ghan reviewed the concept of the Workers' Compensation Program Specialist series and compared them to Ms. Kelly's duties.

Commissioner Skaggs indicated there was a difference between self-insured programs versus a pooled program from an overall administrative standpoint. Commissioner Skaggs also felt that there was a difference between coordinating and managing an early return to work program.

Mr. Long stated the Program Officer series was generic and that NDOT made a case that Ms. Kelly's duties required specialized knowledge, skills and abilities. When a future recruitment was conducted, he didn't feel they would be able to find the person they needed to do the job as well as a recruitment for Workers' Compensation Program Specialist V.

Marilyn Yezek stated future replacement of Ms. Kelly had been discussed, and that NDOT would add selective criteria asking for a Nationally Certified Workers' Compensation Specialist.

Chairman Enus asked for clarification on the time Ms. Kelly spent performing ergonomic contact and resolution, and the support of the workplace safety and loss control in relation to the concepts of Agency Loss Control Coordinator.

Mr. Long replied they didn't feel those duties met the concept for managing an agency safety and loss control program. Those duties were credited to Mr. Cook's responsibilities. Mr. Long gave examples of other classes at grades 32 to 34 which also supported safety and loss control programs; therefore, grade 35 could not be justified.

Robin Freestone, Supervisory Personnel Analyst, University & Community College System of Nevada (UCCSN), Human Resource Department, stated their Workers' Compensation Program Specialist V, grade 34, also manages a statewide program for 5,500 employees and 5,000 volunteers covered by the program.

Commissioner Skaggs asked if the University program was self-insured and Ms. Freestone stated she didn't know.

Ms. Kelly clarified that NDOT's workers' compensation claims are paid directly from their operating budget up to \$250,000 and there was no pool of funds to manage those claims.

Commissioner Skaggs' motion to grant the appeal to Program Officer III, grade 35, was seconded by Chairman Enus for the purpose of discussion.

Commissioner Skaggs felt there was a significant difference in managing a self-insured program which had direct fiscal impact, in addition to the ergonomic responsibilities.

Mr. Long stated that if Ms. Kelly's fiscal responsibility was guiding Commissioner Skaggs' motion, then the position should be allocated to Management Analyst II, grade 35.

Commissioner Skaggs stated there were different definitions of fiscal.

Ms. Yezek stated NDOT remained opposed to the Management Analyst series because the position did not perform statistical analysis. Yes, it has a budgetary impact and it keeps operating costs down.

Ms. Ghan stated Workers' Compensation Program Specialist V was recommended even though Ms. Kelley didn't handle sensitive claims the majority of the time as the concepts state. The fact that she manages a self-insured program was combined with the time spent handling sensitive claims to justify the recommendation.

After further discussion, Chairman Enus called for a vote on the motion to reclass the position to a grade 35. Read – nay; Fox – aye; Enus – aye; Skaggs – aye; Horgan nay. The motion carried three to two.

VII. *Approval of Occupational Group Study Revised Class Specifications

Mary Day, Supervisory Personnel Analyst, Department of Personnel, explained the streamlined process of conducting occupational group studies. The new process resulted from recommendations made by the Personnel Task Force to the Governor's Fundamental Review Steering Committee. The Governor and the Legislature support the change.

Ms. Day reviewed the former way of conducting studies for the Commission. She explained the new study process focuses mainly on revising class specifications to improve recruitment and classification, abolish obsolete classes, consolidate classes when possible, and create new classes, if necessary. Subject matter experts (SME's) from within and outside State government in specific occupational areas are used to explain work processes, answer technical questions, review duty statements to ensure the work is described accurately, help define class concepts to ensure that each class can be distinguished from another, identify required knowledge, skills and abilities, and assist in developing valid job related minimum qualifications.

Ms. Day stated the advantages of the new process is revised class specifications can be implemented immediately upon approval by the Commission; less staff time is required of the Department and other agencies; and allows the Department to assign staff to other critical areas in human resources.

Ms. Day explained that changes in grade level will only be recommended when subject matter experts and agency management confirm that duties, responsibilities, knowledge, skills and abilities have changed significantly. This may result from new certification requirements or major changes in business processes. When this occurs, the affected employees will be required to complete a Position Description Questionnaire and each position will be reviewed individually. The Legislature would then need to approve the recommendation prior to implementation.

Ms. Day explained the new process also changes how studies are presented to the Commission for approval. Previously, a complete occupational group would be presented. At this meeting and in the future, class specifications would be presented for approval on a piecemeal basis as they are completed.

Ms. Day introduced the analysts conducting the studies as follows:

Social Services & Rehabilitation, Rehabilitation subgroup – Sandra Silva
Mechanical & Construction, 7 subgroups – Tewolde Habtemicael
Engineering & Allied, all subgroups – Alys Dobel, Peggy Martin & Brenda Harvey

Ms. Day stated that in working with the SME's, they found no significant changes to warrant grade changes for the classes presented for approval at this meeting.

Chairman Enus asked for comments on the revisions. There were none.

Commissioner Skaggs' motion to approve all the class specifications presented was seconded by Commissioner Read and unanimously carried.

VIII. Uncontested Action Report

No action required.

IX. Special Reports

The Commission was presented with a report on approved legislation affecting State employees and the Department's approved budget.

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X Comments by the General Public

None

XI. Select Date for Next Meeting

Meeting set for Friday, September 19, 2003, in Las Vegas

XII *Adjournment

Chairman Enus adjourned the meeting at :35 a.m.